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An unending variety of topics

Monday, July 03, 2006

Democracy as regular rebellion

It's the eve of Independence Day here in the United States, celebrating the American insurgents who broke from England. We did have some good inspiration from the Old Countries, as described by this excerpt from a paper of mine:

> In the 1560s, an "intermittent civil war" started between Protestants and Catholics in France. On St. Bartholomew's Day, 1572, encouraged by the government authority, mobs murdered "as many as 10,000" Protestants, targeting their leaders. The same year, the Dutch Protestants began their rebellion against the Hapsburg monarchy. Soon thereafter, Theodore Beza, the successor to Calvin, wrote about the right of rebellion and the need to control government so that such rebellion would not be necessary. Beza's ideas were expanded by an anonymous author, probably the Huguenot Philippe due Plessis-Mornay, in *Vindicae Contra Tyrannos*. (1579). "If kings commit injustices…they become the enemy," Plessis-Mornay wrote. But if individuals determined for themselves when to revolt, the result would be violent anarchy. It was, therefore, the role of the Estates and lesser magistrates to guard individual rights against tyrants. According to

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Nick Szabo

"A premier thinker about history, law and economics, and the lessons they have for security." -- Adam Shostack, Emergent Chaos

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"Like most blogs worth my attention, this blog is updated only infrequently. That is because the authors of blogs worth my attention only post when they have something to say that is true, relevant and not already known by their audience. Most of the human race does not have the skill to know when an idea has these three properties. The skill is particularly rare in the fields of politics and economics, which is why this blog is such a rare and valuable thing." -- Richard Hollerith

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constitutional historian Scott Gordon, the Huguenots "extended their argumentation to encompass less extreme conflicts between a prince and his subjects. Rebellion is exercised in extremis, but more important are the constraints that operate in ordinary times and bear upon a government that might feel quite secure against insurrection." The Huguenots and their successors stressed two ways of controlling tyranny that remain crucial to understanding the non-delegation doctrine today: first, control by distributing and checking power; second, control by representation of interests. According to Beza, institutional organs that represent the people "are established to check and bridle the magistrate."

John Locke elaborated on many of these ideas in his *Second Treatise On Government*. Since humans are unjust towards each other without government, we must form such a government through a compact with each other. We agree to surrender some of our natural rights so that government can function to preserve the remainder. "Absolute arbitrary power, or governing without settled standing laws, can neither of them consist with the ends of society and government, which men would not quit the freedom of the state of nature for, nor tie themselves up under, were it not to preserve their lives, liberties, and fortunes; and by stated rules of right and property to secure their peace and quiet." Power is also more dangerous if concentrated: "He being in a much worse condition who is exposed to the arbitrary power of one man who has the command of 100,000, than he that is exposed to the arbitrary power of 100,000 single men."

When judicial or executive officers distort the law, with the result that injuries go without remedy, the result is nothing less than a state of war. "Where an appeal to the law and constituted judges lies open, but the remedy is denied by a manifest perverting of justice and barefaced wrestling of the laws, to protect or indemnify the violence or injuries of some men or party of men, there it is hard to imagine anything but a state of war. For whenever violence is used and injury done, though by hands appointed to administer justice, it is still violence and injury, however colored with the name, pretences, or forms of law," Locke wrote.

References:

Scott Gordon,*Controlling the State: Constitutionalism from Ancient Athens to Today* (Harvard University Press 1999)

John Locke, *The Second Treatise On Government* (1691)

Posted by Nick Szabo at 2:52 PM

1 comment:

Anonymous said...

I am picking nits here but I have the gravest doubts about that *due* in *Philippe due Plessis-Mornay*.

1:12 PM

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